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November 28, 2012

By Facsimile (914) 390-4152**MEMO ENDORSED**

Hon. Kenneth M. Karas
 Federal Building and United States Courthouse
 300 Quarropas Street
 White Plains, NY 10601-4150

Re: Underlying Actions:

Deskovic v. City of Peekskill, et al., No. 07-CV-8150 (KMK)(GAY)
McGarr v. City of Peekskill, et al., No. 07-CV-9488 (KMK)(GAY)

Third Party Actions:

City of Peekskill v. Westport Insurance Company, et al.

Dear Judge Karas:

We represent Third-Party Defendant, Harco National Insurance Company, in the above-captioned matter. With exception to Zurich American Insurance Company, we write on behalf of the Third-Party Defendant Insurers (the "Insurers").

We have been copied on the attached letter from coverage counsel for the City of Peekskill, dated November 27, 2012, faxed to Your Honor yesterday afternoon. As per our telephone discussion with Chambers this morning, we respectfully request that Your Honor permit the Third-Party Defendant Insurers to respond.

Counsel for the London Insurers, Patrick Walsh, has been most involved with addressing the City's discovery requests. As he is out-of-town on another matter and will not be available until next week, we respectfully request leave to respond on or by Wednesday, December 5, 2012.

Thank you for your consideration.

Yours truly,

WHITE FLEISCHNER & FINO, LLP


 Janet P. Ford
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JPF/mti
 Encl.

Granted.

So Ordered.

 11/28/12

A NEW YORK LIMITED LIABILITY PARTNERSHIP

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Third Party Actions:

City of Peekskill v. Westport Insurance Company, et al.

Dear Judge Karas:

We represent Defendant and Third-Party Plaintiff City of Peekskill ("Peekskill") in the above-referenced Third Party Actions. In order that discovery may proceed on the "trigger" issue, an issue which the Third Party Defendants have indicated will shortly be before this Court, the City respectfully requests that a Rule 26 conference be scheduled as soon as possible. The Third Party Actions commenced in September 2011 and no such conference or other appropriate conference has been scheduled as of yet. If the Court is inclined not to order a conference – the City requests that it be permitted to serve document requests and seek deposition testimony with respect to the trigger issue.

On August 2, 2012, Peekskill informed the Third Party Defendants that Peekskill would seek limited discovery related to the issue of trigger. On October 23, 2012, Peekskill served the Third Party Defendants with discovery consistent with the limited discovery Peekskill had indicated back in August in open court that they would

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seek. The substance of the discovery sought is proper, limited and directly relevant to the issues of trigger which, will shortly be the subject of motion practice before the Court. However, both Westport Insurance Corporation as successor-in-interest to North River Insurance Company and to International Insurance Company, and the London Third Party Defendants,¹ joined by certain Third Party Defendants,² have objected to the timing and relevancy of the discovery requests and will not respond to Peekskill's limited discovery requests.

This limited discovery is particularly important because the Third Party Defendants have faced substantially the same trigger issue in various courts and may have taken varied positions on the issue. Indeed, in this case, Third Party Defendant American Zurich Insurance Company agrees with Peekskill that that the various policy periods may be required to respond and pay any settlement or judgment. In order that the trigger motion may be filed and resolved without unnecessary delay, Peekskill respectfully requests either (i) a Rule 26(f) conference be scheduled; or (ii) permission from the Court to serve the document requests attached hereto and to seek deposition

¹ Underwriters at Lloyd's, London; CX Reinsurance Company Limited as successor-in-interest to CNA International Reinsurance Company and CNA Reinsurance of London, Limited; Sphere Drake Insurance PLC; Illinois Union Insurance Company; United National Insurance Company (as to Policy Nos. CP62686; CPD62686; CP62831; CPD62831; and CPD62831).

² Westport Insurance Corporation as successor-in-interest to North River Insurance Company and to International Insurance Company; Illinois Union Insurance Company; United National Insurance Company; Travelers Indemnity Company as successor-in-interest to Gulf Insurance Company; and Harco National Insurance Company. American Motorists Insurance Company as successor-in-interest to American Protection Insurance Company and Specialty National Insurance Company join in the event its request for a stay of claims against it is denied.

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testimony regarding the trigger issue. In the interim, Peekskill will hold the document requests in abeyance and withdraw the served interrogatories without prejudice.

Respectfully submitted,



Steven J. Pudell

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